

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Richard L. & Mary L. Zimmerman,
Petitioners-Appellants,

v.

Warren County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-91-0331
Parcel No. 48-870-36-0424

On June 4, 2012, the above captioned appeal came on for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellants Richard L. and Mary L. Zimmerman were self-represented. The appeal was originally scheduled for hearing on June 4, 2012; however, Zimmermans requested this Board change the appeal to a written consideration. County Attorney John Criswell is legal counsel for the Warren County Board of Review. The Appeal Board having reviewed the record and being fully advised, finds:

Findings of Fact

Richard and Mary Zimmerman are the owners of a residential, single-family property located at 1214 S G Street, Indianola, Iowa. The property is a one-story home, built in 1997, and has 1560 square feet of total living area, with an 840 square-foot attached garage. The property has a full, unfinished basement. Additionally, the dwelling has a 240 square-foot deck; a 280 square-foot open porch; and a 120 square-foot patio. Other site improvements include a 2520 square-foot detached metal building built in 1994. The site is 4.620 acres.

The Zimmermans protested to the Warren County Board of Review regarding the 2011 assessment of \$268,200, which was allocated as follows: \$63,800 in land value and \$204,400 in improvement value. Their claim was based on the following grounds: 1) that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a); and 2) that the property was assessed for more than the value authorized by law under section 441.37(1)(b). They asserted the correct value was \$195,400, allocated as \$30,400 in land value and \$165,000 in improvement value.

The Board of Review granted the protest, in part, reducing the assessment to \$261,900, allocated \$63,800 in land value and \$198,100 in improvement value. Although Zimmermans did not raise an error claim, notes on the property record card indicate the reduction was due to the Board of Review removing a walkout amenity on the improvements and changing the age of the outbuilding. We also note the property record card indicates the outbuilding was actually added in 2011 and a shed was removed from the listing. The addition of the outbuilding to the listing accounts for \$35,000 of increase to the 2011 assessment.

The Zimmermans then appealed to this Board reasserting their claims and asserting the correct value is \$195,400, the same value as the 2010 assessment.

Zimmerman's evidence is scant. A one-page letter and spreadsheet were presented to the Board of Review. No new information was submitted to this Board. The Zimmermans listed five equity comparables on their Board of Review petition. Several other properties were listed on the petition as equity comparables. Several other properties were noted in a letter but were not identified as equity or market comparables. The following chart is a brief description of the properties Zimmermans submitted.

	Address	Classification	Style
1	1406 S G Street	Agricultural	1 Sty
2	1202 S G Street	Agricultural	1 Sty
3	509 E 3rd Avenue	Residential	2 Sty
4	203 E Kenwood Boulevard	Residential	1 Sty
5	307 N Kenwood Boulevard	Residential	1 Sty
6	211 N Kenwood Boulevard	Residential	1.5 Sty
7	405 N Kenwood Boulevard	Residential	2 Sty
8	103 N Kenwood Boulevard	Residential	2 Sty

Two of Zimmermans' listed properties, 1406 and 1202 S G Street, have agricultural classifications¹ and would not be comparable to the subject's residential classification for equity purposes. Additionally, neither of these properties recently sold and, therefore, would not be considered as market comparables. Property record cards also show that four of the properties are one-and-a-half or two-story homes (211, 405, and 103 N Kenwood Boulevard and 509 E 3rd Avenue) as compared to the subject's one-story design; and two of these properties have basement finish whereas the subject's basement is unfinished. For these reasons, we do not find them to be reasonably comparable to the subject property.

The two remaining properties are located at 203 and 307 E Kenwood Boulevard. According to the property record cards both of these properties were built in 1968, but the subject property is much newer as it built in 1997. Additionally, both have 4+5 grades compared to the subject's superior 3-10 grade of construction. Because of these differences we do not find them to be reasonably comparable to the subject property. Moreover, neither property has sold recently, therefore they would not be considered as market comparables.

The Board of Review presented five comparable properties. All are one-story homes having between 1269 to 2092 square feet, built between 1989 and 2000, with grades ranging from 3-10 to 4+10. Comparatively, they are reasonably similar to the subject. While the dates of the sales were not

¹ Both of these properties are split between two property record cards. One property record card is for the land and the second property record card is for the dwelling/improvements.

reported, the five properties had sale prices ranging from \$185,000 to \$322,500. No other information is known about these comparables. Adjustments were not made for differences between the properties and the subject. Because the information had the same limitations as the Zimmermans' information, we give it no weight.

Based on the foregoing, we find insufficient evidence has been provided to demonstrate the subject property is inequitably assessed or over-assessed.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”


Id. at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). The Zimmermans did not show inequity under the tests of *Maxwell* or *Eagle Foods*.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The Zimmermans did not establish the correct market value of the subject property.

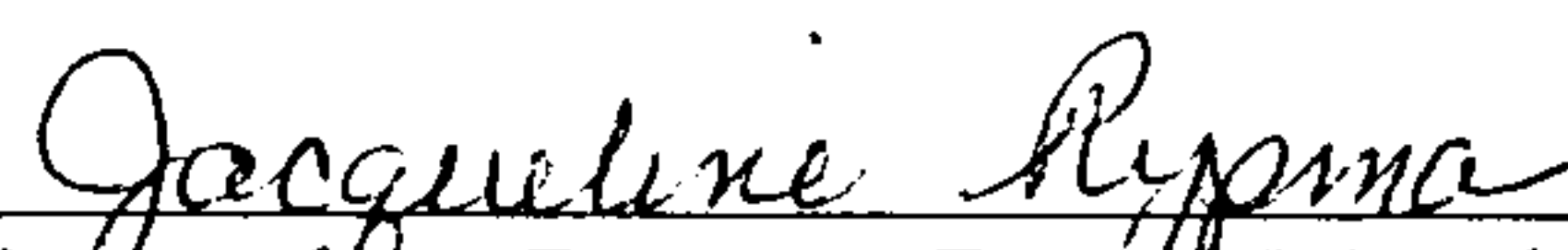
We, therefore, affirm the assessment of Richard L. and Mary L. Zimmerman’s property.

THE APPEAL BOARD ORDERS the assessment of Richard L. and Mary L. Zimmerman's property located at 1214 S G Street, Indianola, Iowa, of \$261,900, as of January 1, 2011, set by the Warren County Board of Review, is affirmed.

Dated this 3 day of August, 2012.


Karen Oberman, Presiding Officer


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member

Cc:

Richard L. & Mary L. Zimmerman
1214 S G Street
Indianola, Iowa 50125
APPELLANT

John Criswell
301 N Buxton
Suite 301
Indianola, Iowa 50125
ATTORNEY FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>8-3</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	